

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
JANUARY 13, 2010**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Gordon Cross, Charles Lapp, Frank DeKort, Marc Pitman, Mike Mower, Jim Heim, Jeff Larsen and Bob Keenan. Allison Mouch and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were 13 people in the audience.

Cross wanted to take a moment to pay tribute to Randy Toavs whose last meeting on the board was in December. He recalled the history of their terms served together on the board with fondness. He commented on Toavs fairness to everyone involved in the process and the fact he was a champion of the residents of Flathead County. He knew the citizens, board and staff gave Toavs the thanks for his service he deserved.

**APPROVAL OF
MINUTES**

Pitman made a motion, seconded by Hickey Au-Claire to approve the December 9, 2009 meeting minutes.

The motion passed by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)**

Russ Crowder, American Dream Montana, passed a handout to the board. He wanted to welcome Bob Keenan to the board and update him on what the planning office had been doing. He talked about attacks on the rights of property owners, corruption and lawlessness of the planning office, the county attorney's office, and the county commissioners at length.

**ELECTION OF
NEW BOARD
MEMBERS
(CHAIR)**

Hickey Au-Claire nominated and Heim seconded Cross for chair.

**BOARD
DISCUSSION**

Cross asked if there were term limits.

Harris said no.

**NOMINATIONS
CLOSED**

DeKort motioned and Mower seconded nominations closed.

**VOTE TO
CLOSE
NOMINATIONS**

The motion passed unanimously.

**VOTE FOR
CHAIRMAN**

The motion passed unanimously.

**ELECTION OF
VICE CHAIR**

DeKort nominated and Pitman seconded Hickey Au-Claire for vice chair.

**NOMINATIONS
CLOSED**

Larsen motioned and Pitman seconded nominations for vice chairman closed.

**VOTE TO
CLOSE
NOMINATIONS**

The motion passed unanimously.

**VOTE FOR VICE
CHAIR**

The motioned passed unanimously.

**SCHEFFER /
WATTS ZONE
CHANGE
(FZC 09-05)**

A Zone Change request in the Happy Valley Zoning District by Daniel Scheffer and Melody Watts. The proposal would change the zoning on two parcels, .98 acres, from R-2 (One-Family Limited Residential) to B-1 (Neighborhood/Professional Business). The applicants were requesting a zoning map amendment that would allow them to apply for a Conditional Use Permit for a drive-through coffee shop in the future. The properties were located on the east side of US Highway 93 between Whitefish and Kalispell, near the entrance to the Happy Valley Homesites Subdivision on Timber Lane.

STAFF REPORT

Allison Mouch reviewed Staff Report FZC 09-05 for the Board.

**BOARD
QUESTIONS**

Cross asked the status of the new criteria for the regulations.

Mouch reviewed the history of the text amendments. The applications would be reviewed under the new regulations if the application was complete by January 8th, 2010. She spoke about the single public comment letter which was submitted. The author felt the zone change would encourage more commercial uses adjacent to his property. She explained the property had been used as an extension of the current business and the uses were limited for the property under the designation requested.

Larsen and staff discussed how many more zone changes would the board review before they would be reviewed under the new changes.

Lapp asked for clarification on the 5 acre size, what that designation applied to, and landscaping.

Mower said the property to the north was in operation before the zoning occurred, so the parcel received B-1 zoning because of that situation.

Mouch agreed.

**APPLICANT
PRESENTATION**

Daniel Scheffer, 4899 Hwy 93 S, Whitefish, recounted how long he had owned the property which was over seventeen years. He spoke about how business had increased over the years, and the family feeling between the customers and employees. They did not intend to build a large business on the property and the zoning was very limited as to what kind of businesses could be on the property. He clarified how much acreage was involved and what was available to work with. He reviewed the access to the property and the type of customers expected. He felt by establishing a coffee stand there, it would actually help to clean up the area by getting rid of weeds and other landscaping issues.

**BOARD
QUESTIONS**

Heim asked if Scheffer tried to get the lots in question zoned the same as the business when the original zoning was applied.

Schaeffer said no, he did not. He gave a history of the property and the challenges associated with it.

Cross asked if he had seen the public comment letter and briefly summarized it.

Schaeffer said no, he had not.

Cross said he would ask him about his views after public comment.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Richard Morin, 218 Antelope Trail, Whitefish, lives south of the mini mart. His concern was the rattling of diesel trucks overnight which sometimes parked on the vacant side of the lot

next to his house. He asked the applicant where he wanted to place the coffee hut.

Schaeffer said on the south end, closer to Morin's property.

Morin and Schaeffer discussed buffer zones, landscaping, eliminating the truck noise, and mini mart creep.

Cross wanted to point out if trucks were staying overnight in the vacant lot, it was a zoning violation and he could file a complaint with the planning office. Looking at the permitted use under the proposed zoning, the trucks would still be a violation.

Gary Krueger, 805 Church Drive, did not have any comment either for or against the application. He wanted to comment on processing zoning applications through the old criteria. He referenced a court case about using the new criteria and giving consideration to the old criteria to judge current applications.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**MAIN MOTION
TO ADOPT
F.O.F.**

Pitman made a motion seconded by DeKort to adopt staff report FZC 09-05 as findings-of-fact.

**BOARD
DISCUSSION**

Heim asked if there would have been a different conclusion under the new criteria.

Mouch said there would not.

Larsen and Cross discussed the differences and similarities between the new and old criteria and the liabilities in using different criteria.

Mower had trouble with seeing this application not be classified as spot zoning, even with the commercial use to the north of it. It was predominately a residential area.

The board discussed spot zoning at length.

**ROLL CALL TO
ADOPT F.O.F.
(FZC 09-05)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC 09-05)**

Heim made a motion seconded by Hickey Au-Claire to adopt Staff Report FZC 09-05 as finding of fact and recommend approval of to the Board of County Commissioners.

**BOARD
DISCUSSION**

Mower said he would support the application because it made sense. However, they were setting up strip zoning. He wondered how they could deny the gentleman to the south when he retired and wanted to set up the same thing if they had approved this application. He asked if they were sure it was where they wanted to set up strip zoning. The application made sense to him and he would support it, but it begged a bigger issue.

Cross brought up other instances where they faced the same issue in the past and explained why this issue was difficult.

Mower, Cross and the applicant discussed briefly strip development and where the zoning stopped.

**ROLL CALL TO
RECOMMEND
APPROVAL OF
(FZC 09-05)**

On a roll call vote the motion passed unanimously.

**ROSMAN-ROWE
ET AL ZONE
CHANGE
(FZC 09-06)**

A Zone Change request in the Highway 93 North Zoning District by Kara Rosman and Ryan Rowe, et al. The proposal would change the zoning on approximately 69 acres from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural). There were ten property owners and thirteen (13) parcels in the area proposed for rezoning. The properties are located on the east side of Whitefish Stage Road and north of Rose Crossing.

STAFF REPORT

Allison Mouch reviewed FZC 09-06 for the board.

**BOARD
QUESTIONS**

Larsen asked for clarification on the differences of permitted conditional uses between the SAG-5 and SAG-10.

Mouch clarified and said they were very minor differences.

Lapp noticed there was no mention of the Two Rivers Plan.

Mouch was unaware the property was in the Two Rivers Plan. According to her research, the property was not included in the plan.

The board and staff discussed what areas were and were not included in the plan.

The board took a 10 minute break and reconvened at 7:07.

Mouch said the information the planning office had indicated the property was not included in the Two Rivers plan. She indicated on a visual aid map which areas were included in the plan area and where the subject property was situated.

The board agreed based on the map, they could proceed and if other information was uncovered before the presentation to the commissioners, staff would present it to the commissioners and if the commissioners wished the planning board to rehear the application, they would.

Lapp explained why he raised the question of if the property was included in the Two Rivers plan.

**APPLICANT
PRESENTATION**

Narda Wilson, Lone Star Land Use, 184 Midway Drive, Columbia Falls, talked about the conformance of the properties included in the surrounding area, how the zone change would bring the properties into closer compliance, and that the zone change made sense.

**BOARD
QUESTIONS**

None.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

None.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**MAIN MOTION
TO ADOPT
F.O.F.**

Pitman made a motion seconded by Hickey Au-Claire to adopt staff report FZC 09-06 as findings-of-fact.

**BOARD
DISCUSSION**

Cross voiced his concern over the transportation plan and possible conflicts over traffic in the area in the future. He asked staff for clarification on access for the lots.

Cross, Wilson and Mouch discussed current access and possibilities for other access to the lots.

Cross and Lapp discussed briefly the transportation plan and possible weaknesses of the plan and the location of the property of the application.

**ROLL CALL TO
ADOPT F.O.F.**

On a roll call vote, the motion passed unanimously.

**MOTION TO
RECOMMEND
APPROVAL**

Pitman made a motion seconded by DeKort to adopt Staff Report FZC 09-06 as Findings of Fact and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

None.

**ROLL CALL
TO
RECOMMEND
APPROVAL OF
FZC 09-06**

On a roll call vote the motion passed unanimously.

**COMMITTEE
REPORTS**

Hickey Au-Claire reported for committee A. She brought up the fact it was a new year and the reevaluation of membership of the committees. The committee wanted to wait to meet until they saw the presentation of the Flathead Lakers that night. After that, they wanted to regroup.

Cross and Hickey Au-Claire discussed mapping gravel resources.

Larsen asked who was on committee A.

The board discussed who was on which committee and where each member's strengths could best be used.

Cross explained to Keenan the goals of each committee and reviewed the progress of each committee.

The board discussed meeting times, who would like to work on each committee, quorum issues of having five members on one committee, how many people they wanted to have on each committee and issues each committee dealt with.

Lapp joined committee A, and Keenan joined committee B.

The board will revisit membership to the committees in six months.

Pitman brought up concerns with information from other agencies which could affect the mapping committee's progress. He updated the board on other committees where he represented the planning board.

OLD BUSINESS

Cross asked for an update on Public Address system.

The board and staff discussed what upgrades were being implemented in the meeting room.

Harris passed out handouts to the board for both the transportation plan update and new neighborhood plan process update. He reviewed the public comments on the plan by both the planning board and the road advisory committee meetings and the public. He explained the hand out for the board. He said the consultants had gone over their estimated meetings, if the board wanted to continue with joint meetings, he would negotiate with the consultant for an amount to take to the commissioners to see if they were willing to increase the amount they were willing to pay. The major expense was the drive from Helena and lodging while in Kalispell.

Cross wanted to talk about holding meetings without the consultants present.

Mower asked why they couldn't video conference with the consultants.

The board discussed video conferencing with consultants and where that could happen.

Cross suggested Keenan be updated with the LTR and Transportation Plan.

Harris said the commissioners asked the planning office to simplify the neighborhood plan process. The commission said the best way to start a neighborhood plan was to ask the commission. He explained the process outlined in the handout.

The board commented the new process was very similar to the old process.

Harris explained the steps.

Mower asked the status of the Lakeside Neighborhood Plan.

The board and staff discussed the status of the Lakeside Neighborhood Plan at length.

Lapp asked why the board was sent the addendums for last meetings applications in their packets.

The board and staff discussed the addendums, the benefit of the board seeing what was sent to the commissioners and the time lag between the time the board received them and the applications were presented to the commissioners.

Cross asked if the addendums could be emailed when ready.

Staff agreed to email the addendums when ready.

NEW BUSINESS

Constanza Von der Pahlen of The Flathead Lakers gave a brief history and mission of the nonprofit organization and presented an overview of how they accumulated their information.

Diane Whited, and Von der Pahlen, Flathead Lakers, explained a power point presentation of maps which displayed important areas for maintaining and/or restoring clean water in Flathead County. The maps included information on flood prone areas, wetlands, riparian areas, lakes, streams, sloughs, shallow ground water, and steep slopes near water.

Pitman and Larsen offered a few suggestions where they could improve their information accuracy on ground water.

Von der Pahlen told the board they planned to make the information available and the Lakers hoped it would help with the planned development of the valley.

Heim asked for clarification on how the information would be available.

Von der Pahlen said they were presenting the information to the board and they would decide on how they thought the information should be made available.

Staff and board discussed how the information would be made available and how the information would be used.

The board and staff discussed mileage reimbursement at length.

Harris wanted to mention the quarterly meetings with the commissioners to put it on the board's radar.

The board discussed possible meeting times and will bring their calendars to the next board meeting.

Lapp mentioned a past meeting with the county seats on other various boards in the valley and wondered when there would be follow up with them again.

Cross said the board would send a letter to the three boards and see if they wanted another meeting.

Harris said staff had put together information about regional concerns and would get the information to the board by the next meeting.

Lapp asked for clarification.

Cross said they could make it an old business item.

Lapp mentioned other issues which might be a concern to the planning board concerning city planning.

The board discussed issues between the city and county briefly.

ADJOURNMENT The meeting was adjourned at approximately 8:40 pm. on a motion by DeKort. The next meeting will be held at 6:00 p.m. on February 10, 2010.

Gordon Cross, President

Donna Valade, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 2/10/10